

Message Text

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ACTION ARA-14

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E.O. 11652: N/A
TAGS: PINT, BR
SUBJ: MALUF FACES HURDLES ENROUTE TO GOVERNORSHIP

REF: SAO PAULO 2297

BEGIN SUMMARY: PRESIDENT GEISEL'S RECENT CONFISCATION OF THE LUTFALLA COMPANY'S ASSETS ON THE GROUNDS OF "ILLICIT ENRICHMENT" HAS PROVOKED NEW CONTROVERSY AROUND SAO PAULO GUBERNATORIAL CANDIDATE PAULO SALIM MALUF. THE EXTENT OF MALUF'S INVOLVEMENT IN THE BANKRUPTCY OF THE COMPANY, OWNED BY HIS WIFE'S FAMILY, AND HIS ALLEGED ROLE IN OBTAINING LOANS FOR THE FIRM ARE METTERS OF WIDE PUBLIC DISCUSSION. THE GOVERNMENT, HOWEVER, HAS TAKEN THE POSITION THAT MALUF IS NOT DIRECTLY INVOLVED IN THE LUTFALLA CASE AND, THEREFORE, IS NOT INELIGIBLE FOR PUBLIC OFFICE. FURTHER CHALLENGES TO MALUF'S INDIRECT ELECTION AS GOVERNOR ARE POSSIBLE, BUT IT SEEMS THAT MALUF HAS THE NECESSARY VOTES TO WIN ON SEPTEMBER 1, EVEN OVER THE OPPOSITION OF THE PAULISTA "ESTABLISHMENT". END SUMMARY.

1. MALUF LINKED TO QUESTIONABLE BANKRUPTCY: SAO PAULO GUBERNATORIAL CANDIDATE PAULO SALIM MALUF HAS FOUND UNEXPECTED HURDLES IN HIS PATH TO THE GOVERNORSHIP OF SAO PAULO STATE. ON AUGUST 8,
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PRESIDENT GEISEL SIGNED A DECREE CONFISCATING THE ASSETS OF THE LUTFALLA KNITTING AND TEXTILE COMPANY AS OF AUGUST, 1975 LUTFALLA WAS TAKEN OVER BY THE NATIONAL ECONOMICS DEVELOPMENT BANK (BNDE) IN 1977 FOLLOWING THE COMPANY'S DEFAULTING ON FOUR SUCCESSIVE LOANS, TOTALLING 276 MILLION CRUZEIROS, GRANTED BY THE BNDE BETWEEN 1972 AND 1976. WILLFUL MISMANAGEMENT AND POSSIBLE FRAUDULENT BANKRUPTCY WERE ALLEGED. THE PRESIDENTIAL DECREE

WAS ISSUED UNDER COMPLEMENTARY ACT 42, OF JANUARY 1969 WHICH EMPOWERS THE PRESIDENT TO CONFISCATE THE PROPERTY OF PERSONS OR ENTITIES FOUND, AFTER INVESTIGATION, TO HAVE "ENRICHED THEMSELVES ILLICTLY". THE LUTFALLA COMPANY WAS DIRECTED BY MALUF'S FATHER-IN-LAW, FAUD LUTFALLA. A NUMBER OF IMMEDIATE FAMILY MEMBERS, INCLUDING MALUF'S WIFE, WERE MAJOR STOCKHOLDERS. MALUF, AS A HOLDER OF COMMON PROPERTY IN MARRIAGE, IS THUS AT LEAST INDIRECTLY INVOLVED. BOTH MALUF AND HIS WIFE HAVE HAD THEIR PERSONAL PROPERTY FROZEN BY DECREE -- "AS A PRECAUTIONARY MEASURE" -- SINCE MAY 1977, FOLLOWING A REPORT BY THE GENERAL COMMISSION ON INVESTIGATIONS.

2. STORM AROUND MALUF: THE DIVERSE SAO PAULO FACTIONS OPPOSED TO MALUF'S GUBERNATORIAL AMBITIONS JOINED IN USING THE LUTFALLA CONFISCATION TO ATTACK HIS CANDIDACY. AS LEGAL GROUNDS FOR THEIR POSITION THEY CITED COMPLEMENTARY LAW 5 OF APRIL 1970 WHICH DECLARES INELIGIBLE FOR PUBLIC OFFICE ALL THOSE WHO HAVE HAD THEIR GOODS CONFISCATED FOR ILLICIT ENRICHMENT. FURTHER CONTROVERSY AROSE AS TO THE DEGREE OF MALUF'S INVOLVEMENT IN OBTAINING THE LUTFALLA LOANS, AND WHETHER AS A RESULT OF THE CONFISCATION MALUF IS NOW INELIGIBLE FOR PUBLIC OFFICE.

3. GOVERNMENT SAYS MALUF NOT INVOLVED: FOLLOWING INTENSE PRESS SPECULATION, ASSISTANT PRESIDENTIAL PRESS SPOKESMAN MARCO ANTONIO KRAEMER DECLARED ON AUGUST 9 THAT MALUF WAS NOT DIRECTLY LINKED TO THE LUTFALLA CASE. MINISTER OF JUSTICE FALCAO MADE A SIMILAR LIMITED OFFICIAL USE

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DECLARATION. MALUF, AFTER SEVERAL DAYS OF UNCHARACTERISTIC SILENCE, RESUMED CAMPAIGN ACTIVITIES ON AUGUST 12 AND EVEN OBTAINED THE PUBLIC SUPPORT OF THREE OF THE FOUR FORMER SAO PAULO GOVERNORS. MALUF HAS INDICATED HIS DESIRE TO MEET WITH FORMER GOVERNOR AND ARCH-RIVAL LAUDO NATEL BUT NATEL HAS MADE IT KNOWN HE DOES NOT WISH TO MEET WITH MALUF.

4. COMMENT: MALUF'S CHANCES OF WEATHERING THE STORM REMAIN UNCERTAIN. TECHNICALLY, HE HAS NO OPPOSITION IN THE SEPTEMBER 1 INDIRECT GUBERNATORIAL ELECTION. MALUF HAS ALREADY PROMISED THAT HIS SPEECH FOLLOWING THE SEPTEMBER 1 ELECTORAL COLLEGE VOTING WILL HOLD SURPRISES. IN VIEW OF THE OPPOSITION TO HIS CANDIDACY, HOWEVER, FURTHER LEGAL CHALLENGES CANNOT BE RULED OUT. THE PROSPECT OF HAVING THE FUTURE GOVERNOR OF BRAZIL'S RICHEST STATE OFFICIALLY PROHIBITED FROM ACCESS TO HIS OWN PROPERTY BECAUSE OF SUSPECTED FRAUD IS NOT READILY ACCEPTED BY THE PAULISTA "ESTABLISHMENT".

5. THE OPPOSITION MDB, BY DECIDING NOT TO NOMINATE A GUBERNATORIAL CANDIDATE AS A SIGNAL OF PROTEST AGAINST THE INDIRECT ELECTIONS, MISSED TAKING ADVANTAGE OF THE WIDESPREAD PUBLIC DISILLUSIONMENT WITH MALUF. THE CONSERVATIVE DAILY "O ESTADO

DE SAO PAULO" HAS CONSISTENTLY ATTACKED MALUF IN VEHEMENT TERMS.
EVEN IF MALUF SHOULD SURMOUNT THESE LATEST HURDLES AND OBTAIN THE
GOVERNORSHIP, HIS TENURE WILL HARDLY BE A PLEASANT ONE.

6. THIS MESSAGE HAS BEEN COORDINATED WITH EMBASSY BRASILIA.
POVENMIRE

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